

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Alberth, Jr. et al. )  
)  
For: Method and Apparatus for Storing )  
a Message for Playback during a )  
User-Initiated Emergency )  
Telephone Call from a Wireless )  
Device )  
)  
Serial No.: 09/610,768 )  
)  
Filed: July 6, 2000 )  
)  
Examiner: Tran, T. )  
)  
Art Unit: 2618 )

**Pre-Appeal Brief Request for Review**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request review of the final rejection in the above-identified application. No amendments are being filed with this request. The present request is being filed in conjunction with a notice of appeal. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

The Examiner rejected claims 4, 12 and 17. All other claims have been allowed. More specifically, the Examiner has rejected claims 4, 12 and 17, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, suggesting specific amendments as being necessary to address identified informalities, with respect to consistency concerns.

Regarding claims 4, 12 and 17, the applicants have reviewed the basis for the Examiner's position, and do not agree with the reasoning used to support the articulated objection. It would appear that the Examiner has objected to the claims as having language, which is not identical with language associated with specific embodiments described in the detailed description. In

turn, the Examiner has sought to impose a restriction into the claims, based upon the nature of at least one of the specific exemplary embodiments. However, the embodiments in the detailed description do not define the scope of the claims, the language of the claims define the scope of the claims. The applicants believe that the Examiner has misconstrued the requirements of 35 U.S.C. §112, second paragraph, namely that there is no requirement that the claims be consistent with any particular embodiment being described in the detailed description to the degree that is being currently requested by the Examiner.

A specific detailed embodiment identifying by way of example the detection of user's voice signals, would appear to support and be consistent with the claimed detection of audio signals. More specifically, voice signals are an example of and a subset of audio signals, and consequently contrary to the Examiner's assertions are fully supportive and consistent with the specific claimed language. In fact, one skilled in the art would understand that the inventors had possession of the originally claimed subject matter, at the time the application was originally filed, and that the same was fully supported by way of the original detailed description.

Consequently, because the use of a specific example in the detailed description involving a detection of a user's voice signal is fully supportive, and consistent with the detection of the claimed audio signal, the alleged inconsistency which could be said to raise patentability concerns is not present, and therefore the basis for the rejection can not be supported.

In view of the above remarks, the applicants would respectfully request that the Examiner's continued final rejection of the claims be withdrawn, and that the claims be permitted to proceed to allowance.

Respectfully submitted,

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